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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,646	03/10/2004	Mathew Hayden Harper	111244.162 (US1)	4189
23483	7590	01/22/2009	EXAMINER	
WILMERHALE/BOSTON			RUBIN, BLAKE J	
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BOSTON, MA 02109			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/797,646	Applicant(s) HARPER ET AL.	
	Examiner BLAKE RUBIN	Art Unit 2457	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-3, 5-13 and 15-22.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/ARIO ETIENNE/
 Supervisory Patent Examiner, Art Unit 2457

Continuation of 13. Other:

1. With respect to claim 15, applicant argues Perras does not disclose, "receiving a request to register a data communication session with a packet data server prior to a radio air link being established with the mobile subscriber."

The examiner respectfully disagrees. The applicant asserts that the registration of Perras can only be done at the completion of a radio air link being established. If such a constraint is made on Perras, the examiner sees no distinction in claim 15 as presented, and thus would counter that such a registration can not be made via the applicants invention prior to the radio air link being established.

2. Furthermore, applicant argues that Perras does not disclose, "following receipt of said signal indicating that the radio air link has been successfully established, sending a configuration request signal to the mobile subscriber."

The examiner respectfully disagrees. Perras discloses that at the completion of the link being established (column 4, lines 50-52; Figure 2, 20), via the airwaves (column 3, lines 36-41), an agent advertisement message is sent (column 4, lines 63-65; Figure 2, 44) which contains configuration information (column 4, lines 65-67, whereby the configuration is established via MIP).

3. With respect to claim 16, applicant argues that Perras fails to disclose, "exchanging data session registration request and reply signals between a packet control function module and a data packet server module to register the data communication session according to a known communication control protocol."

The examiner respectfully disagrees. Perras specifically discloses the exchange of information between packet control function module (column 4, lines 44-46) and data packet server module (column 3, lines 39-40).

4. With respect to claims 1, 8, and 19, applicant restates similar arguments as applied to claim 15 above. The examiner maintains the response made in response to claim 15.

5. Furthermore, with respect to claims 1 and 8, applicant argues that the combination of Perras and Cheng does not disclose claims 1's, "waiting a set time period before sending a configuration request to the mobile subscriber to allow establishment of the radio air link" and claim 8's, "waiting a first set period from sending initial configuration request signal to the mobile subscriber before sending a second initial configuration request signal, wherein the first set time period provides additional time for establishment of the radio air link."

The examiner respectfully disagrees. Cheng discloses the transmission of information being sent from the base station to the mobile station at the expiration of a retransmission timer, whereby the information is sent to the receiver in response to the base station.

/Blake Rubin/
Examiner, Art Unit 2457